

JAN 25 2008



STATE OF NEW YORK

OFFICE OF THE ATTORNEY GENERAL

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HAROLD BAER
U.S. DISTRICT JUDGE
S.D.N.Y.

ANDREW M. CUOMO
Attorney General

January 24, 2008

LESLIE G. LEACH
Executive Deputy Attorney General
Division of State Counsel

JUNE DUFFY
Assistant Attorney General in Charge
Litigation Bureau

Hon. Harold Baer, Jr.
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: **Carter v. DOCS**, 07 Civ. 7788

Dear Judge Baer:

I represent defendants Kudlack, Goulding and Gaynor in the above referenced case. I am writing to request a 60 day extension of the discovery and all corresponding deadlines in the above action. The reason for the request is that to date plaintiff has failed to provide written authorizations for the medical records in this case. I have sent him the authorizations twice and am enclosing them a third time with this letter. I also telephoned plaintiff and received no response to my message. Plaintiff's fundamental claim is that defendants violated his Eighth Amendment rights by providing him with constitutionally defective medical care. In order to complete discovery in this case, it is necessary that plaintiff provide the authorizations so that his records can be produced.

I also request that plaintiff be advised that the failure to provide his medical authorizations could lead to sanctions including dismissal of the case. In the event that plaintiff does not provide the signed authorizations within 30 days, I request permission to move to dismiss plaintiff's case. See Davidson v. Dean, 204 F.R.D. 251 (S.D.N.Y. 2001) (dismissing case pursuant to Fed. R. Civ. P. 37 where plaintiff failed to provide authorization for release of medical records). I also enclose for plaintiff's signature a copy of the Court's proposed pre-trial scheduling order that was previously sent to plaintiff but not returned.

*Subj: then can I
be extensions only
The PTSD I can give you
30 days & that all extensions of
my best in due time June 15, 2008
failure to produce a failure to produce
the authorizations for other outstanding
documents will on this second chance result in a dismissal*

Benjamin Lee
Assistant Attorney General

Harold Baer
U.S.D.J.

Date: 1/25/08

Endorsement:

Sadly there can be extensions only within the PTSO. I can give you 30 days and that's all and motions if any will be due June 1, as for the failure to produce a failure to produce a signed PTSO and/or the authorizations and any other outstanding documents within 10 days from the date hereof will on this record likely result in a dismissal.